IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

MACA.No. 570 of 2004()

AGAINST THE AWARD DT. 12.1.04 IN OP(MV).524/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY.

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APPELLANT/PETITIONER

PUTHIYANGADI SHAFEEQUE,
S/O. P.C.ABDULLA, AGED 27 YEARS,
KELOTH HOUSE, MATTANNUR, KANNUR DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS: RESPONDENT NO.3

THE NEW INDIA ASSURANCE COMPANY LTD.,
BRANCH OFFICE, UDUPPI.

BY ADV. SRI.PMM.NAJEEB KHAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 01/ 06 / 2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.A.C.A.No.570 OF 2004

Dated 1st June, 2007

JUDGMENT

Koshy,J.

Appellant/petitioner, at the age of 18, met with an accident. He claimed a compensation of Rs.1,10,000/=. The Tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the respondent insurance company. However, the Tribunal has awarded only a total compensation of Rs.26,200/=. Only quantum of compensation of disputed in this appeal.

2. With regard to the medical evidence, the Tribunal has considered the injuries and treatment given to him in paragraph 7 of the award as follows:

> "7. Ext.A2 discharge card issued from the Medical College Hospital shows that the petitioner had been there as an inpatient for 18 days. He was diagnosed as a case of head injury and also right haemothorax. The petitioner says in evidence that an iron rod had pierced through the chest cavity causing a serious injury and he had to undergo treatment effectively for about one year. This case of the petitioner that an iron rod had pierced through his chest cavity is proved by medical documents. Besides that serious injury he had also head injury. The Ext.A3 referal OP. Ticket issued from the Medical College Hospital shows that the

> petitioner had a head injury with fracture of left parietal bone and fracture of multiple ribs, and also right haemothorax, with tube thoractomy. After discharge the petitioner was reviewed on 16.7.94 and 18.7.94. The Ext.A4 scan report shows that the petitioner had fracture of parietal bone left side besides other injuries like fracture ribs and right haemothorax."

No compensation for permanent disability was granted as no certificate was produced even though it was contended that there was loss of memory. The Tribunal granted Rs.15,000/= for pain and suffering and since the appellant could not move for about four months, Rs.6,000/= was awarded for loss of income. It is stated that he has produced Ext.A5 medical bills amounting to Rs.1,028/= and it is contended that for 18 days he was in the hospital. There was fracture of ribs, parietal bone and right haemothorax and an iron rod was pierced through his chest as proved by medical certificates. Considering his injuries, even though entire medical bills were not able to be produced, for treatment and transportation expenses we award Rs.5,000/= more. We are of the opinion that in the absence of any other evidence, no enhancement is necessary under other heads. The above additional amount of Rs.5,000/= should be deposited by the respondent insurance company with 8% interest from the date of application till its

deposit within three months from today. On deposit of the amount, the appellant is allowed to withdraw the same.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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